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A Pioneer in International Arbitration

by

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A Pioneer in International Arbitration

AT the present time when the Hague Tribunal is steadily growing in dignity and authority and when the man who makes peace between two great warring nations is justly acclaimed a benefactor of the human race, one should not forget the career of a man to whose untiring zeal was largely due the first signal achievement in international arbitration.

Thomas Balch, son of Lewis P. W. Balch, was born at Leesburg, Loudoun County, Virginia, on July 23, 1821, and it was in this county seat that he received his early education. He studied at Columbia College and later read law in the office of Mr. Stephen Cambreleng, of New York. He was admitted to the New York bar in 1845, to the bar of the Supreme Court of Pennsylvania in 1849, and the bar of the Supreme Court of the United States in 1855. In 1852 he married Emily, daughter of Joseph Swift, of Philadelphia, and from this period he devoted himself to the interests of his adopted city as well as to those of a wider public.

In 1859, Mr. Balch went to Europe where he traveled extensively, making the acquaintance of many distinguished statesmen, political economists, and literary men. He was well acquainted with Guizot, the historian and premier of Louis Philippe, Michel Chevalier, the economist, James Lorimer of Edinburgh, and Prévost-Paradol, the journalist and author of *La France Nouvelle*. Making his headquarters at Paris, he devoted himself to collecting material for a work which had long engaged his attention. This was the history of the part taken by France in the Revolutionary War. Although completed in

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1870, this work, owing to the Franco-Prussian War, was not published until 1872, and then only in part. It was entitled *Les Français en Amérique pendant la Guerre de l' Indépendance des Etats-Unis*. This first volume was subsequently translated into English by his son, Thomas Willing Balch, and was published in Philadelphia in 1891.

While engaged in these researches, Mr. Balch found occasion to visit America. His sojourn in France and his intercourse with Englishmen caused him fully to appreciate the seriousness of the difficulties growing out of the Alabama claims. The strained relations between the United States and Great Britain in the latter part of the Civil War were to him a cause of solicitude. In November, 1864, while Grant and Lee were facing each other before Richmond, he visited President Lincoln for the purpose of urging that the quarrel caused by the Alabama depredations be settled by arbitration. Mr. Lincoln replied that "the idea was a good one in the abstract but that in the then temper of the American people it was neither possible nor popular." And then in his characteristic manner he added: "We are not near enough to the millenium for such methods of settling international quarrels."

This answer, though explicit and pointed, did not prevent him from continuing the advocacy of his idea in the face of repeated rebuffs. At last, taking advantage of the softened feelings in the North which followed the surrender at Appomattox, he wrote a letter which Mr. Greeley published in the *New York Tribune* of May 13, 1865. This letter not only urged that the Alabama claims be settled by international arbitration but at the same time laid down the code of rules which were later observed, with slight modification, by the Geneva Tribunal. Sections III and IV of these rules indicated a method of procedure which was followed in the Treaty of Washington, May 8, 1871, which referred the question in dispute to a tribunal of five arbi-

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trators instead of three, as Mr. Balch had suggested. These sections are as follows :

III. That as to such claims, war was a barbarous manner of enforcing them; that the most successful war would after all be a most expensive and unsatisfactory process of litigation; and that the civilized and Christian way of ascertaining their validity and extent should be by arbitration.

IV. That the best manner of composing such a Court of Arbitration would be, that each party should select some competent jurist, those two to select an umpire. The claims to be presented, proved and argued before this Court, whose decisions should be final and without appeal.

The temper of the American public was still too embittered for this suggestion to be adopted immediately. Nevertheless, the idea did not perish. The British statesman and political economist, Richard Cobden, who was a friend of Thomas Balch, had already endorsed it, but his support was cut off by his death April 2, 1865. Still it continued to gain adherents. The letter originally published in the *Tribune* was reprinted in England in *Social Science* of March 15, 1867. The *Courrier du Dimanche*, through M. Prévost-Paradol, and the *Journal des Débats* lent assistance to the cause in France. But the most powerful support was received from a lecture by James Lorimer, professor of public law and the law of nations in the University of Edinburgh. After this the idea grew until it found concrete expression in the Geneva Tribunal, but it was due to Mr. Greeley that it was not suffered to die at its birth.

It was due in large measure to the peaceful acceptance of the decision of the Geneva Tribunal that the principle of arbitration has since then been successfully applied to the settlement of other disputes and that it has been possible to establish at The Hague a permanent international tribunal, "whose decisions should be final and without appeal."

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It is true that The Hague Tribunal was suggested as early as 1623 by Eméric Crucé, who pointed out Venice as a good location, and that his contemporary Grotius and subsequently Castel de Saint-Pierre, Kant, and Bentham, also advocated the idea of international arbitration. But until the well-timed, specific suggestion of Thomas Balch, it had remained purely a theoretic question, one that would do for philosophers to speculate over and for peace-lovers to dream about. Such in fact was the attitude of Mr. Lincoln. All the greater honor is therefore due to the man who, perceiving its practicability, persisted in advocating it, with the result that his ideas are obtaining wider and wider acceptance at the present day as the correct method of settling international disputes.

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